

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Hardin	:	
Wind LLC, for a Certificate to Construct a	:	Case No. 13-1177-EL-BGN
Wind-Powered Electric Generating	:	
Facility in Hardin and Logan Counties,	:	
Ohio	:	
	:	
In the Matter of the Application of Hardin	:	
Wind LLC for a Certificate of	:	Case No. 13-1767-EL-BSB
Environmental Compatibility and Public	:	
Need for a Substation Project in Hardin	:	
County	:	
	:	
In the Matter of the Application of Hardin	:	
Wind LLC for a Certificate of	:	Case NO. 13-1768-EL-BTX
Environmental Compatibility and Public	:	
Need for a 345kV Transmission Line in	:	
Hardin County	:	

**REQUEST FOR LEAVE TO FILE APPLICATION FOR REHEARING
AND APPLICATION FOR REHEARING**

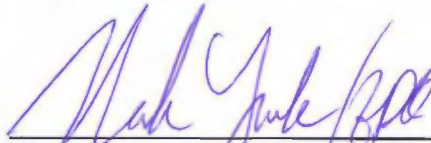
Pursuant to 4903.10, Ohio Revised Code ("RC") and Rule 4901-1-35, Ohio Administrative Code ("OAC"), James Rudolph, Rich Rudolph, Susan Cornell, Ron Brown, Judge John Ross, Frances Ross, and Charles Ruma (collectively, the "Indian Lake Residents") respectfully request leave to file an application for rehearing of the Ohio Power Siting Board's ("Board") March 17, 2014 Opinion and Order (the "Opinion and Order") approving the Stipulation and Recommendation and issuing the certificates to Hardin Wind, LLC for the construction, operation, and maintenance of the Scioto Ridge Wind Farm.

This Application for Rehearing requests an Order on Rehearing finding that the Board's March 17 2014 Opinion and Order is unreasonable and unlawful for the following reasons:

- A. The Opinion and Order is unlawful and unreasonable because the Board failed to consider the conservation of the natural landscape of Indian Lake.**
- B. The Opinion and Order is unlawful and unreasonable because the Board failed to adequately consider the devaluation of real property in close proximity to the installation of 500 foot tall wind turbines.**

Pursuant to RC 4903.10, the Indian Lake Residents respectfully seek leave to file this application for rehearing because the Indian Lake Residents failure to enter an appearance prior to the March 17, 2014 Opinion and Order was due to just cause; and the interests of the Indian Lake Residents were not adequately considered in the proceeding. The reasons in support of the application for rehearing are set forth in the accompanying Memorandum in Support.

Respectfully submitted,



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Attorneys for Indian Lake Residents

MEMORANDUM IN SUPPORT

I. The Indian Lake Residents request the Board to grant them leave to file an application for rehearing.

i. The Opinion and Order affects the Indian Lake Residents.

The Ohio Revised Code permits non-parties to proceedings before the Board to file applications for rehearing if the non-party is an "affected person, firm, or corporation." RC 4903.10. The Indian Lake Residents are persons who own property in close proximity to Indian Lake, which is located in Logan County, Ohio:

James Rudolph, 10140 Wolfe Island, Lakeview, OH 43331;

Rich Rudolph, 10140 Wolfe Island, Lakeview, OH 43331;

Susan Cornell, 10140 Wolfe Island, Lakeview, OH 43331;

Ron Brown, 9432 Lakeshore Drive, Huntsville, OH 43324;

Judge John Ross, 9603 Heron Way, Belle Center, OH 43310

Frances Ross, 9603 Heron Way, Belle Center, OH 43310

Charles Ruma, 9437 Lakeshore Drive East, Huntsville, OH 43324

Within the last fourteen days, the Indian Lake Residents have learned that Hardin Wind, LLC, a wholly owned subsidiary of EverPower Wind Holdings, Inc. (the "Applicant"), received approval from the Board of its Stipulation and Recommendation to construct, operate, and maintain the Scioto Ridge Wind Farm. The Scioto Ridge Wind Farm will be located in Logan County and Hardin County, and according to the approved certificate, wind turbines will be constructed within one mile of Indian Lake. The wind turbines that will be constructed will ruin the natural landscape of one of Ohio's most picturesque lake communities. The Indian Lake Residents never expected that their investment in lake front property in Ohio would be decimated by a foreign corporation's

egregious development of a massive wind farm with wind turbines climbing 500 feet into the horizon. The tranquil lake community – and home to the Indian Lake State Park – will now be inundated with the site and sound of the giant spinning blades for the foreseeable future. Consequently, the Indian Lake Residents are deeply affected by the Opinion and Order in this case and respectfully request leave to file an application for rehearing.

ii. The Indian Lake Residents failure to enter an appearance prior the Board's issuance of the Opinion and Order was due to just cause.

The Indian Lake Residents did not enter an appearance at an earlier stage in this proceeding for one simple reason: they were completely unaware of the wind project and/or the project's proximity to Indian Lake. Had they known that an application was filed at the Board that would directly affect the enjoyment of their property, the Indian Lake Residents would have been involved in this proceeding from its inception. The Indian Lakes Residents do not dispute that the Applicant published notice of the application with the Bellefontaine Examiner and the Kenton Times; however many of the Indian Lake Residents are not full time residents of the area. As seasonal residents of the area, they are less likely to receive a daily subscription to a local paper.

Furthermore, the notices were published on September 3, 2013, November 9, 2013, and December 27, 2013. Each of the notices was published outside of the high occupancy season near Indian Lake. The first notice was published the day after Labor Day, the traditional ending to the lake season. The next two notices were published when the seasonal residents were away from the lake. Additionally, the vast majority of this proceeding occurred over the winter when the Indian Lake Residents were not residing by the lake. The wind farm project received little attention until the Opinion and Order was issued. Simply put, many Indian Lake Residents left Indian Lake when the

summer ended thinking their property would be in the same condition when they returned. Now, the Indian Lake Residents are returning to the lake and finding out for the first time that the scenic features of Indian Lake will now include five hundred foot wind turbines towering over their homes and their treasured state park. Accordingly, the Indian Lake Residents failure to appear before the Opinion and Order was issued was due to just cause.

- iii. The interests of the Indian Lake Residents were not adequately considered in the proceeding.

Property owners around Indian Lake were not represented at the proceeding at the Board. The Ohio Farm Bureau Federation ("Farm Bureau") and Joe Grant were the only two intervenors in this proceeding and neither represent the Indian Lake Residents' interests. As discussed further herein, the Indian Lakes Residents strongly object to the impact of the wind turbines on the natural beauty of Indian Lake. Additionally, the Indian Lake Residents object to the reduction in property value of their lake front property as a direct result of the construction of the wind farm. In comparison, the Farm Bureau supported the wind farm and represents farmers who will earn "approximately \$4,000 to \$7,000 per turbine per year" for each turbine they contract to have placed on their farm. (Farm Bureau Direct Testimony of Dale Arnold at p. 5). Mr. Grant does not live in close proximity to Indian Lake, and he did not raise the issues regarding the conservation of Indian Lake and the devaluation of lake front property as a consequence of the wind farm. Therefore, only the Indian Lake Residents will be able to explain to the Board their interest in the conservation and preservation of Indian Lake. The Indian Lake Residents strongly urge the Board for leave to file this application for rehearing.

- II. **The Indian Lake Residents respectfully request the Board to order a rehearing to allow the Indian Lake Residents to present additional evidence regarding the wind farm's adverse impact on Indian Lake.**

In approving the Stipulation, the Board recognized that the Stipulation must satisfy three criteria. First, the Board must determine that the settlement is the product of serious bargaining among capable and knowledgeable parties. Second, the Board must find that the Stipulation, as a package, benefits ratepayers and the public interest. Third, the Board must determine that the Stipulation does not violate any important regulatory practice or principle. (Opinion and Order at 33). A settlement cannot provide the Board with authority to do what the Board does not otherwise have authority to do or to ignore procedural or substantive requirements established by the General Assembly or the Board's rules. See *Monongahela Power Co. v. Pub. Util. Comm.*, 104 Ohio St.3d 571, 2004-Ohio-6896 at ¶ 26 (2004). As discussed below, the Commission stepped beyond the procedural limits when it approved the Stipulation in this proceeding. Because the results of the Opinion and Order are unreasonable and unlawful, the Board must grant rehearing to allow the Indian Lake Residents to present testimony against the expansive wind farm infringing on Indian Lake.

A. The Opinion and Order is unlawful and unreasonable because the wind farm does not serve the public interest of conserving and preserving Indian Lake.

The wind farm will not serve the public interest pursuant to RC 4906.10(A)(6). The Opinion and Order failed to adequately consider the conservation and preservation of Indian Lake. While the Board acknowledged that the wind turbines would be visible from Indian Lake State Park, the Board failed to recognize the extent of the impact of the wind turbines on the Indian Lake Residents. (Opinion and Order 9). The wind turbines will be "visible throughout most of Indian Lake State Park." (Application 133, 156). At some vantage points all 176 wind turbines will be visible. (*Id.*). Exhibit R to the Application shows the visual impact assessment on some (but not nearly enough) areas around Indian Lake. Figures 14 and 17 show lake views from two different

vantage points. Furthermore, the Applicant provided no alternative project areas for the Board's consideration. (Application 11). It is highly unreasonable for the Applicant to provide only one location for its wind farm when the single location surrounds a state park. The result of the installation of the wind turbines is a dramatic, manmade change to a lake that was once enjoyed for its unspoiled beauty.

The State of Ohio should be preserving its state parks and its scenic and recreational lakes. The wind turbines are visual pollution that will create a new obtrusive skyline for everyone that enjoys Indian Lake. On rehearing, the Indian Lake Residents will demonstrate that the impact on the enjoyment of Indian Lake is devastating. The Indian Lake Residents will testify regarding the loss of enjoyment of their property if the wind turbines are constructed. Additionally, the Board should hear testimony regarding the need for conservation and preservation of Indian Lake. The Board should also hear the testimony of the Applicant explain how and why it came to choose the particular location of the wind farm, and whether the Applicant even considered the effect on Indian Lake when it initially chose the site. These issues need to be explored before one of Ohio's great scenic and recreational destinations is transformed into a strip of Earth pockmarked with 176 individual power plants. Accordingly, the Indian Lake Residents respectfully request that the Board grant the application for rehearing to address these issues in the public interest.

B. The Opinion and Order is unlawful and unreasonable because the Board failed to adequately consider the devaluation of real property in close proximity to the installation of 500 foot tall wind turbines.

The wind farm will not serve the public interest because the wind farm will greatly diminish property values. The Board found that there was "insufficient evidence that the projects would negatively . . . impact property values." (Opinion and Order 36). While

there was limited public testimony regarding the impact of the wind farm on property values, the Indian Lake Residents will provide expert testimony regarding the financial impact on the significant reduction in property values directly caused by the development of the wind farm. The expert testimony will specifically address the lake front properties, which have not been addressed in the proceeding. As previously discussed, the Indian Lake Residents were unaware of this proceeding and had no opportunity to present this evidence to the Board. These individuals have invested substantial portions of their personal wealth in their real property near Indian Lake. If the wind farm has the potential to impact the property values, as a matter of fairness and due process, the Board should allow the property owners to provide testimony in opposition to the Application. The Indian Lake Residents respectfully request rehearing on the issue of property values because the Indian Lake Residents could not provide testimony at the original hearing because they were unaware that it ever took place.

III. CONCLUSION.

For the foregoing reasons, the Indian Lake Residents urge the Board to grant this application for rehearing.



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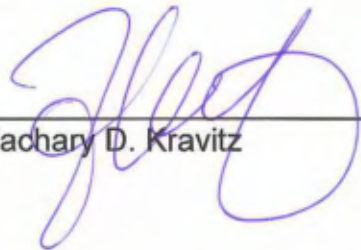
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served this 16th day of April,
2013 by electronic mail upon the following:

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Zachary D. Kravitz

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Hardin Wind	:	
LLC, for a Certificate to Construct a Wind-	:	Case No. 13-1177-EL-BGN
Powered Electric Generating Facility in Hardin	:	
and Logan Counties, Ohio	:	

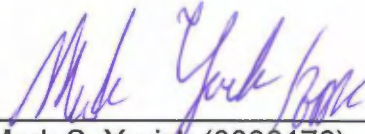
In the Matter of the Application of Hardin Wind	:	
LLC for a Certificate of Environmental	:	Case No. 13-1767-EL-BSB
Compatibility and Public Need for a Substation	:	
Project in Hardin County	:	

In the Matter of the Application of Hardin Wind	:	
LLC for a Certificate of Environmental	:	Case NO. 13-1768-EL-BTX
Compatibility and Public Need for a 345kV	:	
Transmission Line in Hardin County	:	

PETITION TO INTERVENE

Pursuant to Ohio Administrative Code ("OAC") rule 4906-7-04, James Rudolph, Rich Rudolph, Susan Cornell, Ron Brown, Judge John Ross, Frances Ross, and Charles Ruma (collectively the "Indian Lake Residents") respectfully petition the Ohio Power Siting Board for leave to intervene in the above-captioned proceeding. The reasons in support of intervention are set forth in the accompanying Memorandum in Support.

Respectfully submitted,



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***Attorneys for the Indian Lake
Residents***

MEMORANDUM IN SUPPORT

James Rudolph (the "Indian Lake Residents") respectfully request leave to intervene in the proceeding initiated by Hardin Wind LLC, a wholly owned subsidiary of EverPower Wind Holdings, Inc. (the "Applicant") requesting approval of its application to construct the Scioto Ridge Wind Farm (the "Application") filed with the Ohio Power Siting Board (the "Board") on June 28, 2013. Rule 4906-7-04(A)(2) provides that persons may petition for leave to intervene by:

- (a) Preparing a petition for leave to intervene setting forth the grounds for the proposed intervention and the interest of the petitioner in the proceedings.
- (b) Filing said petition within thirty days after the date of publication of the notice required in accordance with paragraph (C)(1) of rule 4906-5-08 of the Administrative Code or in accordance with division (B) of section 4906.08 of the Revised Code.

For purposes of considering requests for leave to intervene in a Board proceeding, the OAC provides that administrative law judge or the Board may consider:

- (a) the nature and the extent of the person's interest;
- (b) the extent to which the person's interest is represented by existing parties;
- (c) the person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding;
- (d) whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

OAC 4906-7-04(B)(1)(a)-(d).

If a petition to intervene is filed after the thirty days from publication of notice has expired, the Board may grant a petition for leave to intervene if the Board finds that:

- (1) Extraordinary circumstances justify the granting of the petition.
- (2) The intervenor agrees to be bound by agreements, arrangements, and other matters previously made in the proceeding.

OAC 4906-7-04(C)(1),(2).

A. The nature and extent of the Indian Lake Residents Interest.

The following Indian Lake Residents are persons who own property in close proximity to Indian Lake, which is located in Logan County, Ohio:

James Rudolph, 10140 Wolfe Island, Lakeview, OH 43331;

Rich Rudolph, 10140 Wolfe Island, Lakeview, OH 43331;

Susan Cornell, 10140 Wolfe Island, Lakeview, OH 43331;

Ron Brown, 9432 Lakeshore Drive, Huntsville, OH 43324;

Judge John Ross, 9603 Heron Way, Belle Center, OH 43310

Frances Ross, 9603 Heron Way, Belle Center, OH 43310

Charles Ruma, 9437 Lakeshore Drive East, Huntsville, OH 43324

Within the last fourteen days, the Indian Lake Residents have learned that Hardin Wind, LLC, a wholly owned subsidiary of EverPower Wind Holdings, Inc. (the "Applicant"), received approval from the Board of its Stipulation and Recommendation to construct, operate, and maintain the Scioto Ridge Wind Farm. The Scioto Ridge Wind Farm will be located in Logan County and Hardin County, and according to the approved certificate, wind turbines will be constructed within one mile of Indian Lake. The wind turbines that will be constructed will ruin the natural landscape of one of Ohio's most picturesque lake communities. Specifically, the Application states that the wind turbines will be "visible throughout most of Indian Lake State Park." (Application 133, 156). At some vantage points all 176 wind turbines will be visible. (*Id.*). The Indian Lake Residents never expected that their investment in lake front property in Ohio would be decimated by a foreign corporation's egregious development of a massive wind farm with wind turbines climbing 500 feet into the horizon. The tranquil lake community – and home to the Indian Lake State Park – will now be inundated with the site and sound of the giant spinning blades for the foreseeable future. In sum, the Indian Lake Residents petition to intervene to address two specific interests:

- 1) The conservation of the natural landscape of Indian Lake.
- 2) The devaluation of their real property in close proximity to the installation of 500 foot tall wind turbines.

B. The extent to which the person's interest is represented by existing parties.

Property owners around Indian Lake were not represented at the proceeding at the Board. The Ohio Farm Bureau Federation ("Farm Bureau") and Joe Grant were the only two intervenors in this proceeding and neither represent the Indian Lake Residents' interests. As discussed further herein, the Indian Lakes Residents strongly object to the impact of the wind turbines on the natural beauty of Indian Lake. Additionally, the Indian Lake Residents object to the reduction in property value of their lake front property as a direct result of the construction of the wind farm. In comparison, the Farm Bureau supported the wind farm and represents farmers who will earn "approximately \$4,000 to \$7,000 per turbine per year" for each turbine they contract to have placed on their farm. (Farm Bureau Direct Testimony of Dale Arnold at p. 5). Mr. Grant does not live in close proximity to Indian Lake, and he did not raise the issues regarding the conservation of Indian Lake and the devaluation of lake front property as a consequence of the wind farm. Therefore, only the Indian Lake Residents will be able to explain to the Board their interest in the conservation and preservation of Indian Lake.

C. The Indian Lake Residents potential contribution to a just and expeditious resolution of the issues involved in the proceeding.

The Indian Lake Residents will contribute to the just and expeditious resolution of the issues involved in the proceeding. The Indian Lake Residents have limited issues that they seek to be heard on rehearing. The Indian Lake Residents are not attempting to retry the entire proceeding and open up each issue to scrutiny. This proceeding will not truly be complete until the issues raised by the Indian Lake Residents are heard by

the Board. Thus, the Board must grant intervention to allow testimony on the record regarding the negative impact the wind farm will have on Indian Lake.

D. Granting the requested intervention will not unduly delay the proceeding or unjustly prejudice an existing party

Allowing the Indian Lake Residents to intervene in the case at this juncture will not unduly delay the proceeding or unjustly prejudice an existing party. The Indian Lake Residents did not know about this Application until it was approved in the Opinion and Order. If the residents are permitted to intervene and their application for rehearing is granted, there will be an additional hearing to take testimony two issues raised by the Indian Lake Residents. The Indian Lake Residents would not object to an expedited schedule to hold the hearing. Any delay would be short and any prejudice to the existing parties would be minor. In comparison, if the Indian Lake Residents are not permitted to intervene, they will have to live with the wind turbines for decades to come.

E. Extraordinary circumstances justify the granting of the petition.

The Indian Lake Residents did not enter an appearance at an earlier stage in this proceeding for one simple reason: they were completely unaware of the wind project and/or the project's proximity to Indian Lake. Had they known that an application was filed at the Board that would directly affect the enjoyment of their property, the Indian Lake Residents would have been involved in this proceeding from its inception. The Indian Lakes Residents do not dispute that the Applicant published notice of the application with the Bellefontaine Examiner and the Kenton Times; however the Indian Lake Residents are not full time residents of the area. As seasonal residents of the area, they are less likely to receive a daily subscription to a local paper.

Furthermore, the notices were published on September 3, 2013, November 9, 2013, and December 27, 2013. Each of the notices was published outside of the high occupancy season near Indian Lake. The first notice was published the day after Labor

Day, the traditional ending to the lake season. The next two notices were published when the seasonal residents were away from the lake. Additionally, the vast majority of this proceeding occurred over the winter when the Indian Lake Residents were not residing by the lake. The wind farm project received little attention until the Opinion and Order was issued. Simply put, many Indian Lake Residents left Indian Lake when the summer ended thinking their property would be in the same condition when they returned. Now, the Indian Lake Residents are returning to the lake and finding out for the first time that the scenic features of Indian Lake will now include five hundred foot wind turbines towering over their homes and their treasured state park. Accordingly, extraordinary circumstances justify granting the petition.

Moreover, even if the Indian Lake Residents had constructive notice of the application to construct a major utility, they would not have seen Indian Lake in the photographs of the Project Area. At Page 21 of the Application, the Applicant states that the map of the Project Area can be viewed in Figure 05-4. The map shows overhead aerial photography of the proposed area of the wind farm. Even though the wind farm is within .5 miles of Indian Lake, the Applicant did not submit a single picture of the lake in proximity to the Project Area in the map. Thus, constructive notice would not suffice in this case.

Finally, extraordinary circumstances exist because of the nature of the interest in this case: the conservation and preservation of Indian Lake. This interest should outweigh any other factor that the Board considers in determining whether to grant intervention. This interest was not sufficiently addressed during the proceedings. As more fully discussed in the Indian Lake Residents' Application for Rehearing, the addition of approximately 176 wind turbines to the landscape will detrimentally affect the

beauty of the lake, the Indian Lake Residents' enjoyment of the lake and their property near the lake, and the Indian Lake Residents' real property values.

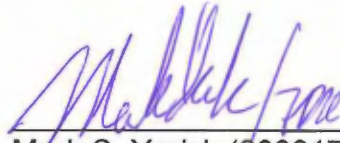
F. The intervenors agrees to be bound by agreements, arrangements, and other matters previously made in the proceeding.

Without waiving their interests in this proceeding, the Indian Lake Residents agree to be bound by agreements, arrangements, and other matters previously made in the proceeding to the extent those agreements do not stipulate to the merits of Indian Lake Residents' issues in the proceeding.

CONCLUSION

For the reasons set forth above, the Indian Lake Residents respectfully requests that the Commission grant this Motion to Intervene.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Petition to Intervene and Memorandum in Support* was served this 16th day of April, 2014 via U.S. first class mail, postage prepaid, upon the following:

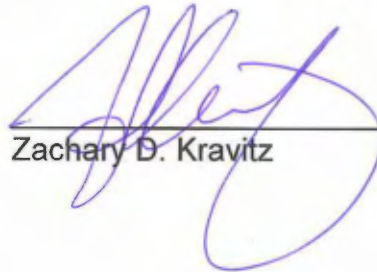
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Commission of Ohio Docketing Information System on

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in

Case No(s). 13-1177-EL-BGN, 13-1767-EL-BSB, 13-1768-EL-BTX

Summary: Application electronically filed by Mark Yurick on behalf of Mr. James Rudolph and Mr. Richard Rudolph and Ms. Susan Cornell and Mr. Ron Brown and Mr. John Ross and Ms. Frances Ross and Mr. Charles Ruma